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BEFORE THE

**Federal Communications Commission** APR 15 1994

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

IN THE MATTER OF

800 DATA BASE ACCESS TARIFFS  
AND THE 800 SERVICE MANAGEMENT  
SYSTEM TARIFF

CC DOCKET NO. 93-129

**OPPOSITION OF COMPUSEVE INCORPORATED  
TO DIRECT CASES OF LOCAL EXCHANGE CARRIERS**

CompuServe Incorporated ("Compuserve"), by its attorneys, hereby submits its opposition to the direct cases submitted in the above-captioned proceeding<sup>1/</sup> by various local exchange carriers ("LECs"). As a large user of 800 services, CompuServe will be harmed if the excessively high and insufficiently justified 800 database "basic" per query rates are not reduced to just and reasonable levels.

**I. BACKGROUND**

CompuServe is one of this country's leading providers of on-line information database services. The CompuServe Information Services provides more than 1.8 million people worldwide with over 1,700 databases and services, which include everything from educational and instructional databases and

<sup>1/</sup> 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 8 FCC Rcd 5132 (1993) ("Designation Order").

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interactive fora to interactive entertainment, home management, and financial services. CompuServe also participates in the point-of-sale (POS) credit card verification service industry, providing millions of merchants around the world with POS services for prompt credit card sales transactions to their customers. CompuServe currently is the primary supplier of dial-up merchant payment services for VISA International, an association of over 21,000 financial institutions in 199 countries and territories. VISA processes approximately one billion credit card transactions per year using the CompuServe network, approximately half of which use 800 service.

The Commission established rules governing the LECs' provision of 800 access service in CC Docket No. 86-10. In the Second Report and Order in that proceeding,<sup>2/</sup> the Commission authorized the LECs to set the rates for "basic" 800 database access services solely on a recurring, per-query basis. The Commission also required the LECs to price optional "vertical" 800 services so that they "reasonably reflect the nature of the underlying costs." 8 FCC Rcd at 909. The FCC concluded that 800 database service is properly classified as a restructured service under the price cap rules and permitted the LECs to treat as "exogenous" only their reasonable basic 800 database costs "specifically incurred for the implementation and operation of the 800 database system." Id. at 911.

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<sup>2/</sup> Provision of Access for 800 Service, 8 FCC Rcd 907 (1993).

On March 12, 1993, CompuServe filed a petition for reconsideration of the Second Report and Order. CompuServe argued that the Commission's prescribed rate structure does not sufficiently constrain the LECs' incentive and ability to price basic 800 database service in excess of the actual costs incurred in providing the service. CompuServe demonstrated that all basic 800 service costs should not be recovered only by a per query charge and that LECs should not be allowed to treat their basic costs as exogenous under the price cap rules. CompuServe explained that transaction processors like itself use 800 services for large numbers of generally very short calls and, therefore, would be disproportionately harmed by excessively priced per query charges for basic 800 database access. CompuServe requested that the Commission, during the interim period prior to revising the per query rate structure, allow 800 service users to utilize the "NXX" form of access as an alternative to mandatory 800 database access service. CompuServe's petition for reconsideration still is pending before the Commission.

The LECs filed tariffs governing 800 database access service on March 1, 1993. The Commission allowed those tariffs to become effective subject to the instant investigation.<sup>3/</sup> Review of the Direct Cases filed in this investigation show that the LECs have priced their basic 800 database access service

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<sup>3/</sup> Bell Operating Companies' Tariff for the 800 Service Management System and 800 Data Base Access Tariffs, 8 FCC Rcd 3242 (1993).

excessively high, making the service unreasonably overpriced for transaction processors such as CompuServe whose calls typically are much shorter than average (approximately one-tenth the duration of the claimed average length of an 800 call). As a result of this investigation, the Commission should remedy the disproportionate amount of basic 800 database access costs being borne by transaction processors, should reduce the amount of so-called exogenous costs allocated to the 800 database access service, and take such other actions as will reduce basic 800 database per query charges to just and reasonable levels.

**II. THE LECs HAVE CLAIMED AN EXCESSIVE AMOUNT OF EXOGENOUS 800 DATABASE ACCESS COSTS**

Review of the LECs' Direct Cases indicates that the LECs have classified excessive amounts of costs as exogenous and, thus, have inflated the claimed costs of basic 800 database access. As the Commission is aware, 800 service is just one application of SS7 network architecture. Many other regulated and nonregulated services eventually also will utilize SS7 architecture and facilities. The LECs should not be allowed to shift a disproportionate amount of costs that will be shared by many services and applications to 800 database access.

In the Second Report and Order, the Commission expressly limited the type of costs that may be classified as exogenous for 800 database technology:

[E]xogenous treatment will only extend to those costs incurred specifically for the implementation of basic 800 database service.

Those costs which are not reasonable and which are not specifically incurred for the implementation and operation of the 800 database system, such as core SS7 costs, will not be afforded exogenous cost treatment. Nor will the costs of accelerating SS7 deployment to meet our implementation timetable be granted exogenous treatment. We anticipate that exogenous treatment will be accorded to those costs associated with: Service Control Points (SCPs), the Services Management System (SMS), and links between SCPs and SMS, as well as between Signal Transfer Points (STPs) and SCPs, to the extent such costs are directly attributable to 800 database service .... the burden is on the LECs to demonstrate that [claimed exogenous] costs are incurred specifically for the implementation of basic 800 database service.<sup>4/</sup>

The LECs have not upheld their burden of proof in their Direct Cases. For example, Bell Atlantic has not justified the inclusion of overhead in its calculation of claimed exogenous costs. Other LECs found no justification for including overhead,<sup>5/</sup> and Bell Atlantic cannot distinguish its situation from that of the other carriers. Without such a documented distinction it would be unjust and unreasonable to allow the 800 database customers of Bell Atlantic to bear costs that customers in other regions do not bear.

Moreover, contrary to the claims of the LECs, the full costs of SCPs, SMS and the links between SCPs and SMS or between STPs and SCPs may receive exogenous treatment only if those costs

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<sup>4/</sup> 8 FCC Rcd at 911.

<sup>5/</sup> See Direct Cases of BellSouth Exhibit 3 at 2; Ameritech Attachment I at 4; Pacific Bell at 9-10; US West at 6; GTE at 15; NYNEX Attachment A at 3; Southwestern Bell at 17.

are incurred solely for the implementation of basic date base service. To the extent that facilities and software will be utilized to provide services other than basic 800 database access, those costs must be identified separately and denied exogenous treatment. In light of the fact that software right to use (RTU) fees and STPs are widely used for SS7 out-of-band signalling associated with existing services, the Commission must look behind the unsubstantiated claims of the LECs that much of their STP, RTU and link costs are attributable solely to basic 800 database access. The costs for certain RTUs and tandem upgrades also were expended to meet the Commission's new access time standards.<sup>6/</sup> Those costs and all other costs that support existing or planned services other than basic 800 database should be denied exogenous treatment.

### **III. THE LECs HAVE NOT JUSTIFIED THEIR ALLOCATION OF COSTS BETWEEN BASIC AND VERTICAL SERVICES**

To comply with the Commission's Second Report and Order, the LECs must allocate reasonably the costs of 800 database access service between basic 800 database service and 800 database vertical services elements. The Commission, therefore, must examine the LECs' cost allocation procedures rigorously because the LECs have the incentive to shift as many of the costs to the basic query service (for which they have a monopoly) and to minimize the costs allocated to vertical

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<sup>6/</sup> See, e.g., Pacific Bell Direct Case at 10-11.

services (for which they face competition). In fact, in their 800 database access tariffs, the LECs acted on that incentive; and in their Direct Cases they failed to justify their misallocation of costs between basic and vertical services.

Most of the LECs unreasonably have implemented only minimal rate differentials between the monopoly basic service and competitive vertical service features. Some of the LECs concede that they have allocated only the incremental costs of vertical features to the vertical services, thereby loading all fixed costs upon the monopoly basic service.<sup>1/</sup> Such an allocation procedure is unreasonable.

In particular, those LECs that allocate costs between basic per query service and vertical features on the basis of demand for vertical features unreasonably shift costs to basic service ratepayers because the amount of fixed costs attributable to vertical features does not vary with demand. Because additional capacity is required to provide vertical services, the fixed costs of such additional capacity should be borne by vertical service users, not monopoly ratepayers.

Even if allocations based on vertical service demand were reasonable -- which they are not -- the LECs' demand calculations are inherently unreliable because they are based on unsubstantiated "assumptions."<sup>2/</sup> Because understated vertical

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<sup>1/</sup> See, e.g., Ameritech Direct Case at 11.

<sup>2/</sup> See, e.g., BellSouth Direct Case at 5 (assume 10 percent of queries from larger IXCs and 20 percent of queries from smaller IXCs would employ complex vertical features).

feature demand in the study period results in a one-time overallocation to basic service of costs eligible for exogenous treatment<sup>9/</sup>, the Commission should not accept the LECs' assumptions regarding vertical service demand without rigorous scrutiny.

**IV. THE LECs' CALCULATIONS OF BASIC PER-QUERY DEMAND CANNOT BE ACCEPTED BECAUSE THEY ARE BASED ON UNJUSTIFIED ASSUMPTIONS**

The level of projected demand for basic 800 database access is an important factor in the calculation of basic 800 rates that has not been sufficiently justified by the LECs. The LECs have used widely varying methods of determining projected "per query" 800 database access demand. At least one LEC based its projected per query demand on historical growth assumptions based on the fact that 800 is a rapidly growing service.<sup>10/</sup> Other LECs used demand growth assumptions but did not rely exclusively on past performance.<sup>11/</sup> Still other LECs projected demand growth less than historical levels, claiming that 800 is a mature service;<sup>12/</sup> and other LECs projected no demand growth at

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<sup>9/</sup> See, e.g., Ameritech Direct Case at 10 ('The exogenous cost treatment Ameritech used .... is a one-time event').

<sup>10/</sup> See, e.g., Ameritech Direct Case at 11.

<sup>11/</sup> Ameritech Direct Case, Attachment I, p. 1; Bell Atlantic Direct Case at 6; GTE Direct Case at 11.

<sup>12/</sup> See, e.g., NYNEX Direct Case at 10.



all.<sup>13/</sup> Moreover, certain LECs used a discount rate to levelize demands,<sup>14/</sup> while others did not.<sup>15/</sup>

These varying demand assumptions have resulted in widely disparate rate levels for basic 800 per query service. These differing demand projection methodologies for basic 800 database access service are not all equally valid, and the Commission must reject the methodologies that result in unreasonably high basic per query rates.

The Commission also must investigate thoroughly those LEC calculations that might understate per query demand and, thus, exacerbate the LECs' already excessive basic per query rates. To derive the projected demand for basic 800 database service, several LECs fail to use direct evidence of the actual number of 800 calls placed. Instead, those LECs use an indirect method of determining demand by dividing the number of 800 minutes of use (MOU) by a claimed average length of an 800 call that is 10 or more times greater than the average POS call.<sup>16/</sup> The accuracy of these estimates are not verified. Because the

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<sup>13/</sup> Pacific Bell Direct Case at 14; SWB Direct Case at 10.

<sup>14/</sup> Ameritech Direct Case, Attachment I, p. 1; GTE Direct Case at 13.

<sup>15/</sup> US West Direct Case at 5; Pacific Bell Direct Case at 14; BellSouth Direct Case at Exhibit 3.

<sup>16/</sup> See, e.g., Direct Case of Southwestern Bell at 15 (average 800 call length 2.75 minutes); BellSouth at Exhibit 1, p. 4; Bell Atlantic at Appendix B, p. 2 (average 800 call length 2.32 minutes). As discussed previously, POS transaction processors like CompuServe use 800 service for very large numbers of very short duration calls (on average, about 16 seconds).

number of POS credit card transactions has been growing consistently over the past decade, the LECs' use of 800 per query demand estimates when actual call data are available should not be permitted.

V. CONCLUSION

For the reasons described above, the Commission should require the LECs to reduce their basic 800 database per query rates to just and reasonable levels.

Respectfully submitted,  
COMPUSERVE INCORPORATED

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**CERTIFICATE OF SERVICE**

I, Marcia Towne Devens, do hereby certify that true and correct copies of the foregoing document, "Opposition of CompuServe Incorporated To Direct Cases Of Local Exchange Carriers," were served by hand delivery, this 15th day of April, 1994, on the following:

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